

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:08-cr-175

- vs -

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

JEREMY E. LEWIS,

Defendant.

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**REPORT AND RECOMMENDATIONS ON MOTION FOR  
CERTIFICATE OF APPEALABILITY**

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This case is before the Court on Defendant Lewis's Motion for a Certificate of Appealability (ECF No. 248). As a post-judgment motion, it is deemed referred to the Magistrate Judge for report and recommendations under 28 U.S.C. § 636(b)(3).

A certificate of appealability is required for appeal from a district court decision a motion to vacate sentence under 28 U.S.C. § 2255. District Judge Rose has already denied Lewis a certificate of appealability on the only ruling in this case which remains appealable, the Entry and Order of May 5, 2016, denying Lewis' Motion for Relief from Judgment under Fed. R. Civ. P. 60(b)(4)(ECF No. 247).

The Clerk shall treat Lewis' request for a certificate of appealability as a notice of appeal from the May 5, 2016, Entry and transmit the same to the Sixth Circuit.

June 30, 2016.

s/ *Michael R. Merz*  
United States Magistrate Judge

### **NOTICE REGARDING OBJECTIONS**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 153-55 (1985).